



United Nations

ICCD/COP(14)/20



## Convention to Combat Desertification

Distr.: General  
14 August 2019  
English  
Original: Arabic, Chinese, English,  
French, Russian and Spanish

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### Conference of the Parties

#### Fourteenth session

New Delhi, India, 2–13 September 2019

Item 3 (c) (iii) of the provisional agenda

**Effective implementation of the Convention at national, subregional and regional level**

**Follow-up on policy frameworks and thematic issues:**

**New and emerging issues: land tenure**

## New and emerging issues: land tenure

### Note by the secretariat

#### *Summary*

As per the provisions of rule 10 of the rules of procedures of the United Nations Convention to Combat Desertification (UNCCD) Conference of the Parties (COP), the second intersessional meeting of the Bureau of the thirteenth session of the COP (COP 13) held in Guiyang, China, on 26 February 2019, endorsed the inclusion of a new agenda item on land tenure, under new and emerging issues, for consideration at COP 14. The Bureau further requested the secretariat to submit a background document in that respect.

GE.19-13881(E)



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## I. Background information

1. By its decision 7/COP.13 on the future strategic framework of the Convention, the Conference of the Parties (COP) took note of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT),<sup>1</sup> authored by the Food and Agriculture Organization of the United Nations (FAO), and recognized their potential contribution to the effective implementation of the United Nations Convention to Combat Desertification (UNCCD) 2018–2030 Strategic Framework. Furthermore, the scientific conceptual framework for land degradation neutrality (LDN),<sup>2</sup> endorsed in decision 18/COP.13, “recommends the adoption of the VGGT, which provide practical guidance on how to protect the rights of local land users, especially those individuals and communities with no advocate in land use decision-making”.
2. In document ICCD/COP(13)/15, entitled “Participation and involvement of civil society organizations in meetings and processes of the United Nations Convention to Combat Desertification”, the Civil Society Organization Panel highlighted the inclusion of land rights in activities of the UNCCD, and in LDN specifically. Decision 5/COP.13 invited Parties to consider the recommendations made by civil society in the above-mentioned document.
3. The ministers attending the thirteenth session of the Conference of the Parties (COP 13) adopted the Ordos Declaration urging Parties to increase their efforts to achieve LDN. The Declaration contained in decision 27/COP.13 acknowledges “the importance of (...) institutions, (...) policies and incentives, good governance and the rule of law to improving land governance for sustainable land management (SLM) (...) and encouraging countries to give due consideration to the dissemination, promotion and implementation of the VGGT”. The Ordos Declaration also acknowledges the call, championed by civil society, for better access, control and stewardship over land, including strengthening tenure security, access and user rights for women and men, particularly the poor and vulnerable, as well as indigenous peoples and local communities, as a critical element of sustainable development.
4. Decision 30/COP.13 emphasizes “the benefits gained from building and strengthening women’s and girls’ capacities, capabilities and awareness in order to enhance their participation at all levels, and addressing women’s rights and access to, inter alia, economic and natural resources, ownership and control of land and other forms of property may foster more effective and efficient implementation of the Convention and enhance synergies and partnerships with other stakeholders”.
5. In decision 18/COP.13, the Parties requested the Science-Policy Interface (SPI) to provide science-based evidence of the potential contribution of LDN to enhancing the well-being and livelihoods as well as the environmental conditions of people affected by desertification/land degradation and drought. Based on land-based response options, this evidence is needed for policy design and implementation, and for projects by governmental organizations, other development institutions and the private sector involved in the implementation phase that follows LDN target setting to advance progress towards Sustainable Development Goal (SDG) target 15.3, maximizing multiple benefits and minimizing negative externalities. In this regard, the SPI has produced a technical paper<sup>3</sup> on “Creating an Enabling Environment for LDN and its Potential Contribution to Enhancing Well-being, Livelihoods and the Environment”, which suggests that in many cases LDN will require improved land governance.

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<sup>1</sup> During its 38th Special Session, the United Nations Committee on World Food Security unanimously adopted the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT). They were developed through a highly participatory multi-actor negotiation that included several regional consultations and four consultations held for civil society. The VGGT represent a global consensus on the principles of responsible governance of tenure of land. Together with the Principles for Responsible Investment in Agriculture and Food Systems they constitute the international code of conduct for land tenure governance.

<sup>2</sup> Document ICCD/COP(13)/CST/2.

<sup>3</sup> Document ICCD/COP(14)/CST/2.

## **II. Review of the relationship between land tenure and land degradation**

### **A. Brief overview of land tenure types**

6. Who owns land, who has rights to use land and natural resources and how secure these rights are significantly influences the way that land is managed.<sup>4</sup> Shifts between various forms of public, private and communal governance are driven by wider social and political changes that are often well beyond the control of people living in any one place. Ownership is distinct from tenure in that most states ultimately own the land in that they reserve the right to supersede individual rights. Tenure – the conditions under which land is held and occupied – is more significant than ownership. Clearly defined and secure tenure and access to land and other natural resources (such as trees and water) provide the basis for long-term stewardship as well as a mechanism for reconciling competing claims made by different users and interest groups.

7. While there are a wide variety of tenure types that can be categorized in different ways, one of the more useful ways is to draw a distinction between statutory tenure (also known as formal, written or official tenure) and customary tenure (also known as informal, unwritten, unofficial, indigenous or traditional tenure). This distinction is useful because the differences between these two primary types, and the interaction between them can be a source of disputes, tenure insecurity and even armed conflict. Tenure security is of primary importance across all types, with the type of tenure less important than the degree of security experienced. This is important because of the 1.5 billion people who depend on land undergoing degradation, most are small-scale farmers who are most involved in customary forms of tenure.<sup>5</sup>

8. Within the category of statutory tenure, private property as a tenure type is common, whereby the state provides institutions and enforcement that support private holdings, while the right to use (with certain restrictions) and transfer land is held by the private party. Integral to these systems is the codification of rights in formal documented statutory law, and the involvement of the state in upholding these rights. Another type of statutory tenure involves ‘state tenure’ whereby the state holds all rights to land and then allocates them to individuals, groups, and organizations. In this type of tenure, the state often asserts that land is being held and managed in trust on behalf of the population. In these systems, there is considerable formality of laws, documentation and procedure; but there can be considerable confusion and informality with regard to what exact rights are held by whom and for how long.

9. Within the category of customary land tenure, land is typically owned by indigenous or local communities and administered in accordance with their customs. Ownership is vested in the family, group, community, or tribe. Land is often allocated by customary authorities such as chiefs or tribal elders. Customary land rights are location-specific and often flexible, overlapping, and include dispute resolution mechanisms and individual as well as group rights to use local land resources.<sup>6</sup>

### **B. Overview of causal linkages between tenure security and land degradation**

10. The primary causal linkage between land rights and land degradation exists through the different forms and degrees of how securely land is held by the owner, occupant, renter or user. While a diverse set of variables operate to drive land resources toward conservation, sustainable management or degradation, broadly, the contribution of tenure security is that those who hold land securely are able and motivated to invest in resource conservation practices with a view to long-term health and productivity, without the fear that their land

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<sup>4</sup> United Nations Convention to Combat Desertification (UNCCD) Global Land Outlook (GLO).

<sup>5</sup> <<https://www.un.org/sg/en/content/sg/statement/2014-06-17/secretary-generals-message-world-day-combat-desertification>>.

<sup>6</sup> UNCCD GLO.

may be unjustly taken or encroached upon. Those that do not hold land securely often degrade lands because they fear their land may be taken from them, and thus try to get as much as possible out of the land in the short term and are explicitly unmotivated to invest in their land.

11. 'Tenure security' is dependent on several important questions:

- (a) Is one's claim to land 'defendable' against virtually all other claimants?
- (b) Does the general community (from local to national) respect one's claim and view it as clear and legitimate?
- (c) Is there an ability to access and use legitimate and workable institutions to defend claims and resolve disputes at different levels (village, regional, national)? and
- (d) Is there access to evidence and proof of occupation and ownership that is viewed as legitimate by the law, institutions and wider society?

12. The way these questions are answered in any given setting will determine the degree of tenure security that is experienced, regardless of the form of tenure in which they operate – customary, statutory or hybrids. Such security does not function in a strictly 'secure or insecure' state but, instead, exists along a continuum from insecure to secure, with a substantial middle ground such that there are always varying degrees of tenure security. A landholder with secure tenure is often more willing and able to invest in their land to ensure productivity over the long-term. Such investments include: planting agronomically or economically beneficial trees; using hedgerows; building terraces, irrigation and drainage ditches and other water and erosion control and soil protection features; and using soil conserving and soil enhancing techniques, such as rotational and fallow land uses, designed to let agricultural, grazing, forest and other landscapes (re)acquire their productive functions. In this case, the security resides in the trust that the productive landscape under one's control will not be seized or encroached upon by others. In other words, there is a trust that the landholder will be able to enjoy the benefits of their investments over the long-term and pass them on the next generation. Such investments then lead to greater health and productivity in agricultural and natural production systems over the long term which then leads to greater food and livelihood security, and ultimately the accumulation of wealth.

13. But these linkages can also work the opposite way, causing land degradation. Decreased or lower tenure security prevents land conserving investments from taking place because the occupant is not sure that s/he will be able to benefit from the return on the investment to be realized over time. Instead, the opposite occurs. Over-use of land resources through exploitive techniques is common among the tenure-insecure in an attempt to get as much as possible out of the land in the short term. The degradation that results and the reduction in agricultural productivity that occurs then lead to additional land clearing and exploitation in order to meet basic food and other household needs, often on marginal lands.

14. Changes in land tenure security can lead to unintended outcomes if other aspects of the broader enabling policy environment are not addressed simultaneously. For example, granting tenure rights without simultaneously incentivizing good land stewardship can lead to the sale of lands because the upfront costs of SLM are seen as too high, making shorter-term gains from selling land assets an economically rational choice.

15. There are variations on the general tenure insecurity-to-land degradation scenario, usually due to the nature of one or more of the components making up tenure insecurity. For example, due to lacking or poorly functioning institutions being unable to quickly and fairly resolve disputes and defend rights, occupants may resort to certain ways of asserting and defending claims that, while effective, result in land degradation. The most important example is, 'clearing to claim': deforestation to create clear and visible evidence for a claim to increase one's tenure security is widespread in different parts of the world. Land clearing as a form of claiming land is so widespread, because it is so effective. Similar trends have been noted for what is called 'defensive farming' in tenure-insecure situations. Defensive farming takes place not to produce food, but instead to create a signal to others that the land is occupied. An important part of defensive farming is that the land is cultivated every year and the soils are eventually depleted.

16. Lands so degraded that they are completely unproductive, appear abandoned and thus contain no obvious occupants are usually more complex in terms of land rights problems, not less. Contrary to land currently under obvious use, where the owner or user is present, the situation with very degraded and apparently abandoned lands is even more contentious. Activities tend to be so unsustainable as to effectively eliminate vegetative growth and any productive use. Such areas are extremely problematic in terms of land rights; but wider land policy, land use, population density and poverty all collectively contribute to rapid degradation and further abandonment. This highlights the importance of an appropriate enabling environment beyond tenure security.

### **C. Positive impacts of tenure security**

17. Humans have always had an intimate relationship with the land, and settlements have ebbed and flowed, appeared and disappeared, partly as a result of the interaction between natural resource management and climate conditions. Land tenure security increases the resilience of populations and ecosystems in the following ways:

#### **1. Water**

18. The sustainable management of water resources is intimately connected with land tenure security in two basic ways – investments and agricultural productivity. Because land needs water to be productive, the level of investment in water management and related infrastructure (at varying scales) is determined by tenure security. Investments such as irrigation canals, gates, and levelling of fields, along with the construction of bunds, erosion control investments and water harvesting structures are all directly linked to tenure security.

#### **2. Food security**

19. Food security is directly linked to tenure security. Tenure-secure farmers invest in their land so as to attain food security. Beyond this most basic connection, the more complex linkages between tenure insecurity and food insecurity can be summarized as a flow of ‘effects’ from tenure security to food security. Enhanced user rights provide for greater investments, while enhanced mortgaging rights provide greater access to credit, and enhanced transfer rights result in the transfer of land to more productive farmers and uses. These then result in greater productivity and, hence, food security for populations other than those occupying the land. However, not all of these enhancements must occur to achieve increases in sustained food security.

#### **3. Job creation and economic investment**

20. The international community has recognized the important role played by tenure security in sustainable economic growth and included it in eight SDG targets and twelve SDG indicators. Tenure security directly impacts investment, credit availability, market access, land values, poverty rates and agricultural productivity – all of which underpin economic growth.<sup>7</sup> Tenure security gives individuals, families, communities and companies the confidence to invest in land resources. The economic opportunities these investments create will require additional labour. Assets become more valuable, generating a virtuous circle and expanding job opportunities. Relationships between tenure security and investments can operate at scales larger than the individual farmer or small-scale entrepreneur. Of course, if large-scale investors are not tenure-secure themselves, their investments will not take place. However, this becomes problematic if the state attempts to provide tenure security to large-scale investors and thus deprives smallholders, on the same land, of their tenure security.

#### **4. Poverty reduction**

21. Secure access to land reduces vulnerability to poverty. In many rural societies, the most impoverished have the least tenure security, making them the most vulnerable to

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<sup>7</sup> Economic growth depends on secure land tenure. LandLinks, the United States Agency for International Development.

expropriation or encroachment. Such insecurity can increase with development, because as development occurs (e.g. irrigation established in rain-fed areas, or roads constructed to link rural areas to markets), the adjacent lands grow in value, making them more prone to expropriation and further impoverishment. According to the VGGT, “States should expropriate only where rights to land, fisheries and forests are required for a public purpose” and “clearly define the concept of public purpose in law in order to allow for judicial review”, ensuring consistency with national legislation and obligations under international law.

## **5. Gender equality and women’s empowerment**

22. The UNCCD’s Gender Action Plan (GAP)<sup>8</sup> prioritizes rights and access to assets (particularly land assets) as one of its four priorities of action for the empowerment of women. However, because women in many areas of the world hold only secondary rights to land or are outright denied rights to land, they can be extremely tenure-insecure on the land they use, which hinders their empowerment and equal treatment. Gender equality in land rights would contribute significantly to tenure security and the resulting empowerment of women as land users.

## **6. Migration**

23. The causes of migration are complex and context-dependent when examined in their relationship to tenure security. Several factors influence this relationship, including the type of land rights and type of migration, whether it be forced, permanent, seasonal, return, circular, etc. There is evidence that the lack of land tenure security is, in part, what discourages youth from staying and building their futures on the land, resulting in a tremendous loss of intergenerational and traditional knowledge and eroding good stewardship. Generally, increased tenure security is associated with reduced migration through a decrease in the pull factor of cities; conversely, tenure insecurity is itself an important push factor for migration from rural areas. However, due to the context dependency of migration, these ‘push-pull’ effects from tenure security can vary. For example, in cases of forced dislocation, tenure security plays a relatively minor role, except in cases where the dislocations are directly related to land tenure issues. In general, however, migration is less likely in the tenure security ‘chain of effect’ as increases in tenure security lead to increases in investment, agricultural productivity and food security which then disincentivize economic migration. Appropriate land governance could encourage young people to maintain links with the land and land stewardship so that this inheritance can be passed down to future generations. However, it should be noted that a degree of wealth accrued in part from tenure security can then provide the financial means to migrate in search of opportunities, economic or otherwise.

## **7. Stability**

24. Peace and stability cannot be achieved if land and property rights are not secure, and insecurity in one’s holding in an unstable context can contribute to or become a trigger for armed conflict. In post-conflict situations, programmes to provide land tenure and engage in land restitution with security can contribute significantly to sustainable peace and stability, thus becoming a critical foundation for reconstruction.

### **III. Integration of the Voluntary Guidelines on the Responsible Governance of Tenure into land degradation neutrality: examination of important questions**

25. The VGGT are a set of advisory principles authored by the FAO regarding the good governance of the tenure of land, forests and fisheries. The VGGT were developed in response to three broad processes involving: large-scale land acquisitions, climate change and, notably, land degradation. While the VGGT are voluntary, they do make strong linkages between land rights and human rights and their extensive and inclusive negotiation process

<sup>8</sup> <<https://www.unccd.int/actions/gender-action-plan>>.

with governments, civil society, the private sector and academia has resulted in broad support. As a result, the scientific conceptual framework for LDN explicitly recommends the integration of the VGGT principles into target setting and the implementation and monitoring of LDN activities. In the context of this integration, the following three important questions have emerged.

#### **A. Is good governance of land tenure a necessary precondition for achieving land degradation neutrality?**

26. Good governance as a precondition to effective cooperation implies being aware of the variety of interests in land, awareness of the importance of different stakeholders and institutions (formal or customary), and the level of decentralization needed. This precondition is becoming increasingly important as the world enters a period in which new land user types (large-scale land acquisitions, contract farming, medium-scale cash crop farming) are becoming increasingly common as global value chains influence land use in more areas of the world.

27. The Global Land Tool Network<sup>9</sup> describes five mechanisms for such cooperation to occur via land governance: (a) property rights and boundary clarification, official rights recognition and access to land; (b) legal, regulatory and policy dialogue, advocacy and reform; (c) capacity-building of land administration and conflict resolution agencies; (d) public outreach and awareness campaigns; and (e) an improvement in land use planning and natural resource management. But, ultimately, land tenure security is thought to be the primary essential component of good land governance because governance will address the sources of tenure insecurity and then protect such security once obtained. The SPI programme for 2018–2019 highlights the cooperation with the United Nations Human Settlements Programme in engaging the Global Land Indicators Initiative to harmonize land indicators in the measurement of tenure security as part of the indicators used for measuring progress towards LDN.<sup>10</sup>

28. As a core priority of the VGGT, the governance aspect of land tenure is an important step forward regarding SLM. Because both land degradation and sustainable use of land resources depend on the interaction between land resources, climate and human activities,<sup>11</sup> governance has a two-way correlation in degrading or conserving use of land resources. As mentioned, there is a strong correlation between land degradation and poor governance as well as between SLM and good governance.<sup>12</sup> And while good governance as it relates to the management of land resources will not look the same everywhere, broadly it should be robust at some scale in order to be effective.

29. For example, a relative absence of governance at the national level (neglect) but strong local-level formal or customary governance of land resources can support SLM practices. Conversely, strong regional or national governance can be effective in promoting SLM if implemented and enforced effectively, fairly and legitimately even in the absence of or with weak local or regional governance.

30. Good governance of land resources will function differently at different scales, with local-level governance operating from locally-derived priorities, trust and legitimacy, while national and regional level governance depends on the law and legal enforcement for its legitimacy. The relationship between the scales of governance is important. Poor governance at the national level can overwhelm good governance at the local level; while good governance at the national level can be ineffective if local governance is poor or non-existent.

31. Good governance can mean a variety of things and can be found in statutory or customary land systems or pluralistic hybrids. While attention to national statutory forms of good governance is needed, in terms of land area, customary land governance systems are

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<sup>9</sup> Global Land Tool Network. Good Land Governance Policy Paper: <[www.gltm.net](http://www.gltm.net)>.

<sup>10</sup> Document ICCD/COP(14)/CST/4.

<sup>11</sup> Land and water – sustainable land management. The Food and Agriculture Organization of the United Nations (FAO).

<sup>12</sup> Governing land for women and men. FAO.



most common overall. However, effective customary land governance becomes threatened when incompatibilities and non-recognition emerge between customary and statutory systems.

32. The form of governance and its relationship to land resources is important. Heavy-handed exclusion of populations from land resources (e.g. the creation of some national parks and preserves, prohibitions on the collection and use of fuelwood with no alternative, grazing and cultivation prohibitions with no alternative livelihood provisions) can be good for the conservation of certain natural resources, but are not generally regarded as good governance.

## **B. How can the Voluntary Guidelines on the Responsible Governance of Tenure (including environmental and social safeguards) be integrated into the implementation of land degradation neutrality?**

33. There is significant complementarity between the VGGT and LDN (particularly regarding land governance) that can facilitate their integration or mutual application. Both VGGT and LDN implementation plans prioritize the following inputs: (a) the role of policies, land tenure institutions and integrated land use planning; (b) the importance of stakeholder participation; (c) the use of tools and capacity-building for assessing the status of lands (potential, type, condition, resilience); and (d) the use of tools and capacity-building for economic evaluation and gender assessment.

34. Both the VGGT and LDN seek to provide benefits to individuals, populations and nations, including marginalized and vulnerable groups. To the degree that the benefits in both frameworks match, they should be able to be integrated in terms of how the benefits are achieved. Such that achieving certain benefits by following the VGGT would also be valuable for the purposes of LDN, and vice versa. Such benefits include: poverty reduction; improved livelihoods; climate resilience and adaptation; migration policies; empowerment and protection of vulnerable groups; women's rights; and other social, economic, and environmental benefits. LDN stresses the role of 'multiple benefits' in achieving "coherent policy action across sectors" that includes some or all of the following integrative activities:

### **1. Awareness-raising**

35. Important to both VGGT and LDN, awareness-raising, including broad-based information campaigns and consultation with stakeholders, can be used to set targets and draw attention to the priorities of both. This may consist of providing VGGT guidance on how to establish good governance of land tenure as part of LDN target setting and implementation. To accomplish this, capacity-building efforts can be conducted in order to train LDN advisors and national focal points in the specifics of the VGGT so as to facilitate their integration into LDN activities. Mobile technologies can be useful in this regard, particularly given that many mobile platforms now exist in order to raise awareness, and assess, register, claim and demarcate lands.

### **2. Integration of multi-stakeholder platforms**

36. The VGGT programme has created government-led multi-stakeholder platforms in 26 countries, while non-governmental organizations have created even more. The purpose of these platforms is to conduct information and perspective sharing and engage in discussions on the most effective ways to implement the VGGT. Those involved in LDN activities can participate in these platforms for the purpose of establishing known linkages and discovering others, as well as working with the VGGT to establish additional platforms in more countries.

37. Given that multi-stakeholder platforms are being advocated as an approach to plan, implement and monitor LDN, this is a significant complementarity. The LDN and VGGT multi-stakeholder platforms could merge or otherwise actively link their activities given that the same stakeholders are often involved, and duplication of effort should be minimized. This merging could be particularly effective if the VGGT and LDN were to join forces in establishing new platforms in countries that do not yet have them.

### **3. Establishment of partnerships**

38. Related to but different from multi-stakeholder platforms are partnerships for the implementation of specific priorities for both the VGGT and LDN. Because the successful recognition of land rights and security of tenure requires multiple actors, land rights can suffer as a result of non-cooperation.

39. Such non-cooperation drives competition, confrontation, and confusion over who has what rights, which then drives land degradation. However, tenure security can also be quite responsive to positive forms of cooperation among various stakeholders.

### **4. Review of policies, laws and legal frameworks**

40. An important set of activities for both LDN and the VGGT is the review of policies, laws and legal frameworks in order to ascertain the changes that may be needed in order to support compliance. Integrating or sharing these review exercises would avoid duplication of effort, increase efficiency and explore synergies.

### **5. Bringing Voluntary Guidelines on the Responsible Governance of Tenure specific guidance into plans to achieve land degradation neutrality**

41. The VGGT can provide specifics about how to achieve responsible governance of tenure that is relevant to achieving LDN. These include: dispute resolution regarding land rights, spatial planning, taxation, valuation and the management of land rights records. To facilitate this integration, national reports and plans submitted to the UNCCD secretariat could include information on progress being made towards the effective governance of tenure and implementation of the VGGT.

### **6. The gathering of evidence, data and examples**

42. The collection of evidence, data and examples that illustrate the correlations and connections between the VGGT and LDN could be very useful, particularly between good governance of land tenure and improved land management. This could be part of the assessment component of both the VGGT and LDN. This information could then be compiled and shared so that opportunities for realizing this connection could be applied elsewhere, and so that a stronger case could be made for the adoption of the VGGT in the pursuit of LDN.

43. Such an effort could include the description and dissemination of best practices for integrating the VGGT and LDN and how to reflect the VGGT in the indicators for LDN.

### **7. Involve funding and investment in the integration effort**

44. Public and private investors, along with funding organizations (such as the LDN Fund) could refer to and work with the VGGT guidelines in the assessment of environmental and social risks involved in the implementation and achievement of LDN. Investors and funders can also request local and national partners to comply with the VGGT in order to support LDN projects.

### **8. Social and environmental safeguards**

45. The establishment of social and environmental safeguards are an important part of the VGGT and can be integrated into LDN. The most relevant of these include:

(a) The establishment of safeguards to avoid infringing or extinguishing the tenure rights of all stakeholders, whether or not they are protected by law or formally recognized;

(b) Safeguards should protect women and other vulnerable groups that may have secondary or subservient rights to land, such as gathering rights. This includes the rights of other family members who are not shown as rights holders in recording systems such as registries;

(c) States should provide safeguards to protect the environment, livelihoods, human rights and food security when large-scale land transactions take place. This is particularly relevant in the LDN context when large-scale reforestation, land rehabilitation

and recovery schemes are pursued. Such safeguards could include regulating how land transfers or changes in land rights exceeding a certain scale are approved;

(d) Safeguards should be applied in projects where a large-scale change in land rights may occur (such as zoning or other legal changes). Such safeguards may include: the provision of adequate information, technical and legal support, the use of participatory and gender-sensitive approaches, taking into account indigenous peoples' rights, and the use of environmental safeguards in order to minimize or prevent land degradation and loss of biodiversity; and

(e) Safeguards should also be applied against the improper and poor application of spatial planning powers, particularly regarding changes in land use.

## 9. Integration into national strategies

46. The LDN approach encourages the development of national strategies in order to achieve objectives. The VGGT framework is intended to be used when countries are deriving their own national strategies. Effort can be placed on seeing how the VGGT approach can be applied to the derivation of LDN national strategies as well.

## C. How can the gender aspects of land tenure be applied to contribute to the gender-responsiveness of land degradation neutrality?

47. The LDN priority of gender-responsiveness links up with the VGGT's application of gender-sensitive land rights in a number of ways. LDN can be gender-responsive by supporting the aspects of VGGT intended to enhance women's access, ownership and security of tenure. This can be achieved in a variety of ways, including the legal review of statutory and customary laws and legal prescriptions that discriminate against women's land rights, including inheritance, rights associated with divorce, registration and ownership. These can be carried out with the goal of suggesting modifications. At the same time, the growing number of women's associations at the local level provide an opportunity to empower these and bring them into law and policy-making, land demarcations, land use planning, assessments, innovations, project planning and implementation.

48. Support for the full complement of women's rights to land (buying, selling, inheritance, etc.) as outlined in the UNCCD GAP, and not just a set of secondary rights, independent of their civil or marital status, though equitable participation in governance of land tenure, is an important step in gender-responsiveness for LDN. This is particularly true given that most degraded lands are occupied by women, and agricultural performance is heavily linked to women's activities.

49. The FAO describes five important aspects of women's rights to land that can be effectively included in LDN gender-responsiveness: (a) context analysis, (b) advocacy, (c) sensitization and training, (d) multi-stakeholder dialogue, and (e) the long-term approach. These are described in detail in the FAO's document on "Governing land for women and men".<sup>13</sup>

50. LDN responsiveness can work with government units to: use affirmative action such as quotas to make sure that women are equally represented in the structures of political and governance institutions responsible for land tenure policy-making; establish stakeholder groups or suggest the establishment of a specialist government agency to attend to gender issues in land tenure; train a 'pioneer' group of government officials, including women, to take the lead in the land policy-making process at the local level; and adapt policy events, activities, processes and tools to ensure gender equity in land rights.

51. For civil society, LDN responsiveness can assist groups to: increase the legal literacy of women, for both statutory and customary law, so as to be better prepared to engage with the policy-making process, and to know what is possible; engage directly with government in order to propose text options for policies and legal drafts, along with the preparation of background and issues papers; use media to build support, change attitudes and create public

<sup>13</sup> <<http://www.fao.org/3/a-i3114e.pdf>>.

consensus for gender-equitable participation in the policy-making process; organize side events at meetings, conferences and other events on the policy-making process for land issues; also organize and participate in debates on land-relevant policy issues; train staff members of institutions dealing with land tenure on the gender aspects of new land policies; campaign for the implementation of good land policies by setting up watchdog groups and tracking governments' implementation processes and publicizing findings; and monitor the gendered impact of land legislation and policies.

#### **IV. Sustainable Development Goal indicators: can these be usefully integrated into the United Nations Convention to Combat Desertification reporting exercise?**

52. The UNCCD reporting exercise focuses on five strategic objectives with a set of indicators that are to be complemented with additional indicators, such as the following three SDG indicators:

##### **A. SDG Indicator 1.4.2: Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure<sup>14</sup>**

53. The metrics to be used for this indicator are:

(a) The proportion of the adult population with documented tenure rights that are legally recognized by governments. In this case, National Statistical Offices will use administrative data from government registries and cadaster systems to measure the proportion of the adult population with formally documented tenure rights. Given the close causal relationship between most cases of documented title and land productivity and healthy functioning, this metric could be a very useful complement and potentially mapped against various strategic objective indicators. For this indicator, further reporting could be disaggregated by gender and type of tenure; and

(b) The proportion of the adult population that perceives their tenure rights as legally secure, regardless of whether these rights are documented. In this case, national population surveys (survey data) are to be collected regarding the perception of tenure security. This is because not all landholders who are tenure-secure have a title, and not all titled landholders are secure. This is understood as a more subjective indicator, yet one that nonetheless provides additionality in reporting.

##### **B. SDG Indicator 5.a.1: Women's ownership of agricultural land<sup>15</sup>**

54. This indicator focuses on agricultural land, which is understood to be a critical resource for food security and poverty reduction in numerous developing countries. The indicator monitors rights over land, including but not exclusive to, ownership over land, and is useful for understanding gender equity in land ownership and control in rural areas. This indicator is divided into two sub-indicators:

(a) The first is an incidence measure which measures how prevalent ownership or secure rights over agricultural land are in the reference population; and

(b) The second measures the share of women among owners or rights-bearers of agricultural land and can be used to monitor the under-representation of women among the owners or holders of agricultural land.

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<sup>14</sup> Governing land for women and men. FAO. <<http://www.fao.org/3/a-i3114e.pdf>>.

<sup>15</sup> Land Portal: <<https://landportal.org/book/sdgs/5a/5a1>>.

**C. SDG Indicator 5.a.2: Proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control<sup>16</sup>**

55. This indicator seeks to monitor country-level legal reforms that provide women with equal rights to ownership and control over land and other economic resources. Progress towards the SDG target is to be measured by the extent to which countries have integrated the following six proxies into their legal frameworks. These proxies are based on internationally recognized standards from the VGGT and the International Convention on the Elimination of Discrimination against Women:

- (a) Mandatory joint registration, or economic incentives for joint registration;
- (b) Spouse or partner consent for land transactions;
- (c) Equal inheritance rights for sons and daughters and for a surviving spouse to receive an inheritance share;
- (d) Budgetary commitments to strengthen equal rights for women regarding ownership and/or control of land;
- (e) Recognition, when applicable, of customary land tenure in the legal and policy framework, with the protection of women's land rights; and
- (f) Quotas for women's participation in land administration and management institutions.

**V. Conclusions and recommendations**

56. **Responsible land governance is a fundamentally important component of SLM and would contribute to the achievement of LDN. The Parties to the UNCCD can build upon on the work carried out by the United Nations bodies and international and national organizations when addressing the issue of responsible land governance in the framework of LDN and SLM. However, no tenure right is absolute. All tenure rights are limited by the rights of others and by measures of public interest promoting general welfare.**

57. **With the aim of encouraging an enabling environment for responsible land governance, the COP may wish to encourage the following at its fourteenth session:**

- (a) **A review of institutional frameworks that might inadvertently encourage land degradation through negative interactions between land rights and degradation;**
- (b) **An exploration of how best to recognize customary land tenure in the legal and policy framework, including to provide legal recognition for legitimate land rights not yet formally protected by statutory law;**
- (c) **Identification of how best to ensure equal land access and control of natural resources for men and women while promoting gender-positive outcomes in LDN implementation;**
- (d) **The recording of tenure rights (including sex-disaggregated rights) using, when available, new technologies to record land tenure;**
- (e) **The recognition and promotion of local community dispute resolution institutions (including the decisions they make) within statutory law, encouraging these to be fair and inclusive; and the creation of equitable, fair and effective dispute resolution institutions where they are lacking, including appeals mechanisms;**
- (f) **Efforts to ensure that LDN target activities do not compromise the rights of land users with particular attention to women and those who may be among vulnerable and marginalized populations (indigenous peoples, pastoralists, small-scale**

<sup>16</sup> Land Portal: <<https://landportal.org/book/sdgs/5a/5a2>>.

farmers) and may hold secondary tenure rights (such as grazing and gathering rights), and that people are not hindered from deriving economic benefit and food security from their land;

(g) Use of the VGGT principles, particularly the spatial planning processes, in the implementation of LDN activities and LDN target setting;

(h) The setup of legal tenure security prior to beginning large-scale land restoration activities, e.g. enforcing the implementation of the LDN Fund's Environmental and Social standards for all LDN projects;

(i) Cohesion across land tenure, land use planning and land management policies so that all work in a coordinated way to incentivize good land stewardship now and for future generations;

(j) Clarity on the fact that the implementation of LDN projects and investments should only engage in land expropriation when all other options have been assessed and discarded and the provision of fair valuation and compensation has been ensured;

(k) That the secretariat, in collaboration with the FAO: (i) ensures that LDN documentation and guidance includes importance aspects of the VGGT; and (ii) produces a joint technical guide on how to integrate the VGGT into LDN implementation;

(l) A review of the current reporting mechanism, templates and tools, such as the Performance Review and Assessment of Implementation System, to allow for the integration of relevant SDG indicators dealing with land governance; and

(m) The engagement of the secretariat and other partners, including the FAO, UN-Habitat and the International Land Coalition, in awareness-raising among vulnerable and marginalized populations, including indigenous peoples, about the existence and nature their land rights, dispute resolution mechanisms, forms of evidence for claim, and state institutions and laws that manage land rights.

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